

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****SPECIAL CIVIL APPLICATION NO. 5872 OF 1999****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of  
the judgment ?

4 Whether this case involves a substantial question of  
law as to the interpretation of the Constitution of  
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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**DAHYABHAI SOMABHAI PATEL - Petitioner(s)****Versus****EXECUTIVE ENGINEER (TRANSMISSION) & ORS. - Respondent(s)**

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**Appearance :**

Shri N.R. Tandel for Petitioner(s).

Ms. Lilu K. Bhaya for Respondent(s) : 1-3.

Ms. Manisha Lavkumar, AGP for Respondent(s) : 4.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG****Date : 06/08/2007****ORAL JUDGMENT**

The petitioner was issued a notice to show cause in relation  
to his unauthorised absence and thereafter, his services came to be

terminated. The petitioner filed a dispute under the provisions of the Bombay Industrial Relations Act, 1947, along with an application seeking condonation of delay. The learned Labour Court, after hearing the parties, found that the case on hand was not fit for condonation of delay. It, accordingly, rejected the application and consequently, also rejected the dispute. Being aggrieved by the said order, the petitioner filed an appeal before the learned Industrial Court. The learned Industrial Court allowed the appeal and remanded the matter back to the learned Labour Court for deciding the matter in accordance with law. This time, again the learned Labour Court dismissed the application seeking condonation of delay and also rejected the main dispute.

2.           Instead of filing the appeal, the petitioner is now before this Court with a submission that termination of his services under the standard Standing Orders was illegal because without affording an opportunity of hearing or without making inquiry, such an order could not be made.

3.           In the opinion of this Court, the petitioner was required to file an appeal under the provisions of the Bombay Industrial Relations Act, 1947. As the petitioner had alternative remedy available to him, I refuse to interfere in the matter, but, however, grant liberty to the petitioner to file an appeal within 30 days from today before the

appropriate forum. If an appeal/competent proceedings is/are filed before the competent Industrial Court, then, the question of delay shall not be allowed to be raised by the other side because the matter is pending in this Court for almost about eight years.

4. It is also to be noted that during pendency of this Writ Application, the Gujarat Electricity Board has been reorganised and has been converted into different Companies. The petitioner would be entitled to join the the Company, which has succeeded to the rights and liabilities of the Gujarat Electricity Board, and stepped into the litigation against the petitioner. The petition is accordingly disposed of. Rule is made absolute. No costs.

***[R.S.Garg, J.]***

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